

Untitled

November 9, 2000

By Email & Overnight Courier

Mary L. Cottrell, Secretary

Department of Telecommunications and Energy

One South Station

Boston, MA 02110

Re: WorldCom Comments Regarding Motions for Reconsideration, Clarification and Extension of Time Filed in Response to the Department's September 29, 2000 Order (D.T.E. 98-57-Phase III)

Dear Secretary Cottrell:

Pursuant to the October 26, 2000 memorandum of Hearing Officer Carpio, WorldCom, Inc. ("WorldCom") hereby submits its comments regarding the various motions that have been filed concerning the Department's September 29, 2000 Order (the "September 29 Order") in the above-captioned proceeding.

With respect to WorldCom's own motion, which requested that the Department reconsider its decisions to (a) reject line splitting over the UNE-P, and (b) reject altogether the subset of line splitting described by the Department as "line sharing between CLECs," WorldCom would like alert the Department to a New York Public Service Commission Order (the "New York Line Splitting Order")(1) that was issued after the parties submitted their initial motions regarding the Department's September 29 Order. (A copy of the New York Line Splitting Order is enclosed for the Department's convenience.)

In the New York Line Splitting Order, the New York PSC expressly ordered Verizon to provide UNE-P line splitting to CLECs. See New York Line Splitting Order at 14 (Verizon required to "facilitate line splitting for customers served by competing voice carriers using UNE-P to promote competition and avoid discrimination"). In doing so, the PSC (at page 11) noted as a preliminary matter that "the engineering processes entailed in splitting a line for a UNE-P voice customer and sharing a line for a Verizon voice customer are identical: there is no physical difference. The record evidence to this effect is unambiguous." The Department, in contrast, failed to reach a parallel issue in Massachusetts, i.e., whether "voice service can be electronically migrated without any disruption or dismemberment of facilities" (September 29 Order at 39), because it mistakenly defined "line sharing between CLECs" out of the definition of line splitting. WorldCom submits that upon revisiting the threshold question regarding the definition of line splitting, the Department will agree that line splitting includes "line sharing between CLECs," and that "voice service can be electronically migrated without any disruption or dismemberment of facilities." WorldCom further submits that the logical conclusion flowing from a correct definition of line splitting is, as the PSC recognized (at page 14), that "a restriction on line splitting would unreasonably hinder the deployment of advanced services to . . . consumers and would discriminate against competitor carriers' voice offerings." The Department's September 29 Order, as written, sanctions the precise anti-competitive imbalance that the NY PSC found unacceptable. In sum, WorldCom requests that the Department revisit and revise its September 29 Order to remove this competitive imbalance and require Verizon to permit line splitting over the UNE-P.

WorldCom also opposes Verizon's motion for reconsideration of the Department's rejection of its proposed loop conditioning charges. First, as the Department has

Untitled

already noted, it would be "inappropriate and inconsistent . . . to allow Verizon to base its loop rates on the costs of a fiber feeder, which may be greater than the costs of copper feeder in that context, while it bases its line sharing rates on the costs of a copper feeder, which are greater than the costs of fiber in the context of line sharing." September 29 Order at 106. As the Department well knows, Verizon unsuccessfully shopped for the network architecture that would generate the greatest amount of revenue in connection with the "forward looking" recurring versus the "forward looking" non-recurring network. This is more of the same and it should not be tolerated. Moreover, Verizon's argument that "DSL requires copper plant" may be true, but it is also irrelevant. It does not matter whether the forward looking network model specifically contemplated the idiosyncracies and limitations of xDSL technology. What the forward looking network does contemplate is the ability to utilize broadband services. In other words, through its recurring rates, Verizon is already charging CLECs for a network capable of handling vast amounts of data. Through xDSL technology, CLECs are actually able to obtain a benefit they are already paying for (but which is dependent on a network that largely does not exist). It would be an improper double recovery for Verizon were it allowed to also charge CLECs for loop conditioning.

Finally, WorldCom also opposes other aspects Verizon's motions. In particular, the Department should reject Verizon's attempt to evade the 40-day interval the Department imposed regarding splitter and cable augments. The Department's detailed analysis of this issue belies Verizon's bald assertion that "[n]othing in the record" supports the Department's determination. The Department should also reject Verizon's attempted foot-dragging with respect to proposed tariff language to facilitate line sharing or line splitting in a DLC environment. Nothing in Verizon's motion supports a legally sound basis for reconsideration of the Department's decision. That Verizon may simply disagree with the Department's required course of action is not a basis for altering or delaying it.

Very truly yours,

Christopher J. McDonald

Enc.

cc (via email & U.S. Mail, w/o enc.): Service List

1. Case 00-C-0127, Proceeding on Motion of the Commission to Examine Issues Concerning the Provision of Digital Subscriber Line Services, Opinion and Order Concerning Verizon's Wholesale Provision of DSL Capabilities (issued October 31, 2000) (the "New York Line Splitting Order").